

DECISION MEMORANDUM

TO: COMMISSIONER KJELLANDER
COMMISSIONER RAPER
COMMISSIONER ANDERSON
COMMISSION SECRETARY
COMMISSION STAFF

FROM: DAPHNE J. HUANG
DEPUTY ATTORNEY GENERAL

DATE: JANUARY 8, 2016

**SUBJECT: IDAHO POWER'S APPLICATION FOR APPROVAL OR REJECTION
OF A REPLACEMENT ENERGY SALES AGREEMENT WITH J.R.
SIMPLOT COMPANY, CASE NO. IPC-E-16-01**

On January 6, 2016, Idaho Power Company filed an Application requesting that the Commission accept or reject a replacement Energy Sales Agreement between Idaho Power and J.R. Simplot Company. The Agreement falls under the Public Utility Regulatory Policies Act of 1978 (PURPA), and is a contract for the sale and purchase of electric energy generated by the Simplot-Pocatello cogeneration project near Pocatello, Idaho. Idaho Power asks that its Application be processed by Modified Procedure.

BACKGROUND

Under PURPA, electric utilities must purchase electric energy from “qualifying facilities” (QFs) at rates approved by this Commission. 16 U.S.C. § 824a-3; *Idaho Power Co. v. Idaho PUC*, 155 Idaho 780, 789, 316 P.3d 1278, 1287 (2013). The purchase or “avoided cost” rate shall not exceed the “‘incremental cost’ to the purchasing utility of power which, but for the purchase of power from the QF, such utility would either generate itself or purchase from another source.” Order No. 32697 at 7, citing *Rosebud Enterprises v. Idaho PUC*, 128 Idaho 624, 917 P.2d 781 (1996); 18 C.F.R. § 292.101(b)(6) (defining “avoided cost”).

The Commission has established two methods of calculating avoided cost, depending on the size of the QF project: (1) the surrogate avoided resource (SAR) methodology, and (2) the integrated resource plan (IRP) methodology. See Order No. 32697 at 7-8. The Commission uses the SAR methodology – which applies to the Simplot-Pocatello cogeneration project – to establish “published” avoided cost rates. *Id.* Published rates are available for wind and solar

QFs with a design capacity of up to 100 kilowatts (kW), and for QFs of all other resource types with a design capacity of up to 10 average megawatts (aMW). *Id.* The Simplot-Pocatello Project is a QF under the “all other resource type” category. Application at 2.

In calculating avoided cost, the Commission found it “reasonable, appropriate and in the public interest to compensate QFs separately based on a calculation of not only the energy they produce, but the capacity that they can provide to the purchasing utility.” *Id.* at 16. In calculating capacity, the Commission considers “each utility’s capacity deficiency based on load and resource balances found in each utility’s [Integrated Resource Plan] IRP,” as well as “a QF’s ability to contribute to a utility’s need for capacity.” *Id.* at 16, 21.

THE AGREEMENT

The Agreement between Idaho Power and Simplot replaces an existing contract that expires March 1, 2016. Application at 2. Under the terms of the Agreement, Simplot elected to contract with Idaho Power for a three-year term using the non-levelized “other” published avoided cost rates, as established by the Commission (Order No. 33305) for energy deliveries of less than 10 aMW. *Id.* at 4. Because the Agreement in this case is a replacement contract,¹ its rates include capacity payments throughout the contract’s term. *Id.* at 3.

Although the nameplate rating of the Simplot-Pocatello Project is 15.9 megawatts (MW), Simplot agrees not to exceed 10 aMW on a monthly basis. *Id.* at 4. If the facility does exceed the monthly 10 aMW limit, Simplot agrees that “Idaho Power will accept the energy (Inadvertent Energy) that does not exceed the Maximum Capacity Amount, but will not purchase or pay for this Inadvertent Energy.” *Id.*

The facility is already interconnected and selling energy to Idaho Power, thus the Agreement specifies a Scheduled First Energy Date and Scheduled Operation date of March 1, 2016,² but no later than 120 days after Commission approval in a final, non-appealable Order. *Id.* at 5. The terms and provisions of the Agreement include that “applicable interconnection charges and monthly operation and maintenance charges under Schedule 72 will be assessed to Simplot.” *Id.* Also, PURPA QF generation “must be designated as a network resource (DNR) to

¹ The Simplot-Pocatello cogeneration project has been in operation since at least 1991, and has thus been contributing to the utility’s resource stack for many years. See Order Nos. 23552, 25353, 28730, 29577, 30028, 32790, 33240.

² See Appendix B at 38. The Application contains a typographical error, indicating a First Energy and Scheduled Operation Date of March 1, 2015.

serve Idaho Power's retail load on its system." *Id.* at 5-6. To maintain DNR status, "there must be a power purchase agreement associated with [the project's] transmission service request that maintains compliance with Idaho Power's non-discriminatory administration of its Open Access Transmission Tariff (OATT) and maintains compliance with [Federal Energy Regulatory Commission] FERC requirements." *Id.* at 6. The Agreement provides that it will not become effective "until the Commission has approved all of [its] terms and conditions and declared that all payments Idaho Power makes to Simplot for purchases of energy will be allowed as prudently incurred expenses for ratemaking purposes." *Id.*

STAFF RECOMMENDATION

Staff recommends that the case be processed by Modified Procedure with a 21-day comment period.

COMMISSION DECISION

Does the Commission wish to process this case under Modified Procedure with a 21-day comment period?

/s/ Daphne Huang
Daphne Huang
Deputy Attorney General

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